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A-9001D  
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

David W. GERDT et al.

U.S. Appln. No.: 10/082,290

Group Art Unit: 2874

Filed: February 26, 2002

Examiner: J. Kang

For: SENSING APPARATUS EMPLOYING VARIABLE COUPLER  
FIBEROPTIC SENSOR

\* \* \*

RESPONSE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed on November 19, 2003, Applicants respectfully request favorable reconsideration of this application for the reasons set forth below.

Applicants would initially note that the outstanding Office Action fails to have taken into consideration the Preliminary Amendment dated June 6, 2003. As a result of the Preliminary Amendment, Claims 4, 5, 7-8, and 10-26 are pending. A copy of the Preliminary Amendment (with postcard receipt) is attached for the Examiner's convenience in the event that the original document was

misplaced by the Office. As indicated on the postcard receipt, the Preliminary Amendment was accompanied by a Supplemental Information Disclosure Statement. The Supplemental Information Disclosure Statement cited the Kawasaki et al. patent which the Examiner has cited on Form PTO-892. Since a copy of the Supplemental Information Disclosure Statement would amount to mere surplusage at this stage, no copy is being provided herewith.

Turning to the issues raised in the outstanding Office Action, and specifically to the rejection under 35 U.S.C. § 112, second paragraph, Applicants would draw the Examiner's attention to lines 10-14 of amended Claim 4 and lines 8-12 of amended Claim 12. It is apparent that the rejection is inapplicable to the amended claims.

Regarding the objection to the specification, Applicants would respectfully point out that the term "transducer" is both common and well understood in the art. Moreover, those of ordinary skill in the art will readily appreciate that the claimed transducer is fully supported by the specification. See, for example, the description related to bladder 202 in Figs. 15 and 16. Given its common nature and clear support in the specification, Applicants' use of the term "transducer" is not properly objectionable under 37 C.F.R. § 1.75(d)(1). Accordingly,

the objection to the specification is unwarranted and should be withdrawn.

The rejection for non-statutory double patenting over Patent No. 6,463,187 was not applied to Claim 4. So Claim 4 and its dependents are clearly free of the rejection. Regarding Claim 12 and its dependents, the Office did not set forth a detailed rationale for the rejection. Instead, the rejection simply equated the transducer of the present invention with the membrane of the '187 patent. But there are other aspects in which the present claims differ from the claims of the '187 patent. For example, independent Claims 1 and 27 of the '187 patent recite that the fiberoptic coupler is mounted to the support member, whereas the support member of present Claim 12 is defined as a member having a surface configured to support an object being monitored for acoustic activity or motion. Applicants thus respectfully submit that the rejection is unfounded as to Claim 12 and its dependents and request that the rejection be withdrawn.

For the reasons set presented in the foregoing remarks, this application is believed to be in condition for allowance.

An early Notice of Allowance is therefore respectfully solicited.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been requested separately, such extension is hereby requested.

Respectfully submitted,

By:   
Mitchell W. Shapiro  
Reg. No. 31,568

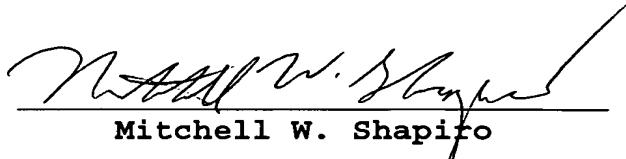
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Date: February 19, 2004

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 19, 2004.

  
Mitchell W. Shapiro